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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

UNITED STATES OF AMERICA.

Plaintiff,

vs.

Melida Flores,

Defendant.

Case No. CR 06-599 CAS

**ORDER DENYING DEFENDANT'S
MOTION FOR
RECONSIDERATION OF MOTION
TO REDUCE SENTENCE
PURSUANT TO 18 U.S.C. §
3582(c)(2)**

I. INTRODUCTION AND BACKGROUND

On October 4, 2010, the Court sentenced defendant Melida Flores (“defendant”) to 108 months imprisonment following her guilty plea for two counts of conspiracy with intent to distribute a controlled substance, in violation of 21 U.S.C. § 846, and eleven counts of possession with intent to distribute crack cocaine, in violation of 21 U.S.C. §§ 841(a)(1), and (b)(1)(B)(iii). The Ninth Circuit affirmed defendant’s sentence by order dated February 28, 2012.

On November 17, 2011, defendant filed a motion to reduce sentence pursuant to 18 U.S.C. § 3582(c)(2). Defendant sought to have her sentence reduced on the ground that the Court should retroactively apply Amendment 750 to U.S.S.G. § 1B1.10. By order dated July 5, 2012, the Court denied defendant’s motion on the grounds that the

1 Court, at the time of sentencing, had granted the government's request to treat
2 retroactively the Fair Sentencing Act ("FSA"), Pub. L. No. 111-120, 124 Stat. 2372
3 (2010). Therefore, defendant had already been afforded the relief she sought in her
4 motion. Defendant filed a second motion on August 16, 2012, seeking the same relief
5 on the same ground.¹ The government filed an opposition on September 21, 2012. After
6 carefully considering the arguments of both parties, the Court finds and concludes as
7 follows.

8 **II. LEGAL STANDARD**

9 **A. Local Rule 7-18**

10 Local Rule 7-18 sets forth the bases upon which the Court may reconsider the
11 decision on any motion:

12 A motion for reconsideration of the decision on any motion may be made only on
13 the grounds of: (a) a material difference in fact or law from that presented to the Court
14 before such decision that in the exercise of reasonable diligence could not have been
15 known to the party moving for reconsideration at the time of such decision, or (b) the
16 emergence of new material facts or a change of law occurring after the time of such
17 decision, or (c) a manifest showing of a failure to consider material facts presented to the
18 Court before such decision. No motion for reconsideration shall in any manner repeat
19 any oral or written argument made in support of or in opposition to the original motion.

21 **B. 18 U.S.C. § 3582(c)(2)**

22 18 U.S.C. § 3582(c)(2) provides in relevant part:

23 The court may not modify a term of imprisonment once it
24 has been imposed except that—in the case of a defendant
25 who has been sentenced to a term of imprisonment based
26

27 ¹The Court will treat this second motion as a motion for reconsideration of its July
28 5, 2012 order.

1 on a sentencing range that has subsequently been lowered
2 by the Sentencing Commission . . . the court may reduce
3 the term of imprisonment, after considering the factors set
4 forth in Section 3553(a) to the extent they are applicable

5 A motion brought pursuant to § 3582(c)(2), however, “is not a second opportunity
6 to present mitigating factors to the sentencing judge, nor is it a challenge to the original
7 sentence.” United States v. Whitebird, 55 F.3d 1007, 1011 (5th Cir. 1995). “Rather, it is
8 simply a vehicle through which appropriately sentenced prisoners can urge the court to
9 exercise leniency to give certain defendants the benefits of an amendment to the
10 Guidelines.” Id.

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12 C.D. Cal. L.R. 7-18.

13 **III. DISCUSSION**

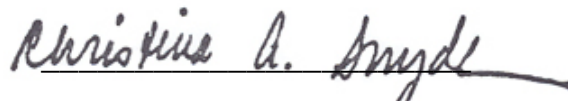
14 Defendant has failed to present any changed circumstances since the time of the
15 Court’s previous order that would warrant a reduction in sentence. See C.D. Cal. L.R. 7-
16 18. As the Court stated in its July 5, 2012 order, the Court granted the government’s
17 request
18 to treat the FSA retroactively at defendant’s sentencing hearing, thereby decreasing the
19 low-end of the applicable Sentencing Guidelines range from 135 months to 108 months.
20 The Court then sentenced defendant to a term of 108 months. Therefore, defendant has
21 already received the benefit of a sentence reduction under the FSA.

22 **IV. CONCLUSION**

23 Accordingly, the Court DENIES defendant’s motion for reconsideration of its
24 order dated July 5, 2012.

25 IT IS SO ORDERED.

26 Dated: September 6, 2013



27 CHRISTINA A. SNYDER
28 United States District Judge